

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
SAVANNAH DIVISION

DERRICK JAMEIN ROBINSON,)
)
)
Movant,) Case No. CV413-189
) CR412-086
v.)
)
UNITED STATES OF AMERICA,)
)
)
Respondent.)

REPORT AND RECOMMENDATION

Causing an atrocious waste of judicial resources, Derrick Jamein Robinson has filed a 28 U.S.C. § 2255 motion even though a direct criminal case (CR412-086) is still proceeding against him. CV413-189, doc. 1. He alleges ineffective assistance of counsel and “denial of right of appeal,” doc. 1 at 4, but *admits* that he has “not been sentenced yet.” *Id.* at 1. And even though he is being prosecuted in this Court, he sent his § 2255 motion to the Northern District of Georgia, which transferred it back to this Court. Docs. 2 & 3.¹

¹ Currently this case is docket-captioned *Robinson v. Unnamed Respondent*. The Clerk is **DIRECTED** to amend the caption to *Robinson v. United States* and cross-link this (413CV189) case with the direct criminal proceedings against him, CR412-

Suffice it to say that this § 2255 motion must be **DISMISSED WITHOUT PREJUDICE**.² Robinson must await sentencing, then entry of judgment against him, and *then* exhaust any direct appeal rights before resorting to § 2255. *United States v. Casaran-Rivas*, 311 F. App'x 269, 273 (11th Cir. 2011) (if filed before sentencing, federal inmate's § 2255 motion to vacate based on ineffective assistance of counsel must be dismissed as premature); *see also Doe v. Hastings*, 2013 WL 607655 at * 2 (S.D. Ga. Feb. 5, 2013) ("Because the direct appeal of Doe's convictions is currently pending, Doe's convictions are not yet final, and § 2255 is not yet an available remedy."). He faces sanctions if he files any more frivolous motions like this. A copy of this R&R shall be served on his Probation Officer and current counsel.

SO REPORTED AND RECOMMENDED this 19th day of August, 2013.



**UNITED STATES MAGISTRATE JUDGE
SOUTHERN DISTRICT OF GEORGIA**

086. All subsequent filings shall conform. And until his criminal case is concluded, any downwind § 2255 motions shall be filed in this (CV413-189) civil action file, rather than in a new one.

² The Court is preliminarily reviewing this case under Rule 4(b) of the Rules Governing Section § 2255 Proceedings.